IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 7241 of 2007()

LP NO.137/07 IN
ST.41/2005 of J.M.F.C.-I,KOZHIKODE

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PETITIONER/ACCUSED 1 AND 2

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1. MOHAMMED NIYAS, S/O ABDUL RAHMAN,
   BLAYIPARAMBIL HOUSE, TOLLGATE,
   EDAPALLY, ERNAKULAM DISTRICT.

2. SUNIL KUMAR C.S., S/O SURENDRAN,
   CHERICHIPARAMBIL HOUSE, VENNALA P.O.,
   COCHIN-28.

BY ADV. SRI.KKM.SHERIF
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. ALICHAN K.K., S/O KURIVAILLA,
   KARUNTHOTTATH HOUSE, CHEVAYOOR P.O.,
   KOZHIKODE.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/11/200 ALONG WITH B.A.NOS.7244 & 7249/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. Nos.7241, 7244
& 7249 OF 2007

Dated this the 20th day of November, 2007

ORDER

The common petitioners in these petitions have prayed for anticipatory bail. They face indictment in three separate prosecutions – all filed by the same complainant. Cognizance was taken as early as in 2005. The petitioners, who allegedly are employed outside the State, had not received notice and could not hence appear before the learned Magistrate so far, it is submitted. The cases have been transferred to the list of Long Pending Cases. Coercive processes have been issued by the learned Magistrate. The petitioners find such processes chasing them.

2. According to the petitioners, they are absolutely innocent. Their absence earlier was not wilful or deliberate. They are willing to surrender before the learned Magistrate

and seek regular bail. But the petitioners apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioners have come to this Court for a direction to the learned Magistrate to release him on bail when they appear before the learned Magistrate.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, these bail applications are dismissed; but with the observation that if the petitioners surrender before the

learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge